

HOUSE BILL No. 1350

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2-104.7; IC 13-14; IC 13-18; IC 13-20; IC 13-20.5; IC 13-22-12-3.5.

Synopsis: Environmental variances and other matters. Makes the following changes concerning variances from environmental rules: (1) If a variance would be in effect for more than one year: (A) the application for the variance must include a demonstration of how the applicant would come into compliance with the rule within the period for which the variance would be in effect; and (B) the variance, if granted, must include a schedule requiring the person to come into compliance with the rule within the period for which the variance will be in effect, and the variance may be revoked for failure to comply with the compliance schedule. (2) Eliminates the renewal of variances, except for variances from certain water quality standards. Authorizes the department of environmental management (department) to require the submission of information or documents electronically. Requires the department to offer certification examinations for certain water
(Continued next page)

Effective: July 1, 2015.

Wolkins

January 14, 2015, read first time and referred to Committee on Environmental Affairs.



Digest Continued

treatment plant operator and water distribution system operator certifications at least once per year. Authorizes the commissioner of the department to authorize independent third parties to administer additional certification examinations. Allows the commissioner to provide certain notices to persons by a means other than by mail. Provides that the offsite location of compensatory mitigation required of a person proposing a wetland activity in a state regulated wetland may be within a designated service area established in an approved in lieu fee mitigation program. Provides for solid waste disposal fees and state solid waste management fees to be remitted to the department on a quarterly basis and for hazardous waste disposal fees to be paid to the department on or before March 1 of the year following the year in which they accrue. Eliminates the requirement that a manufacturer of video display devices report annually to the department the total weight of video display devices sold to households.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1350

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-11-2-104.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2015]: **Sec. 104.7. "In lieu fee mitigation**
4 **program", for purposes of IC 13-18-22-6, means a program under**
5 **which a person proposing a wetland activity in a state regulated**
6 **wetland provides funds to a third party that will use the funds to**
7 **offset the loss of wetlands resulting from the proposed wetland**
8 **activity.**
9 SECTION 2. IC 13-14-8-8 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) Except as
11 provided in section 9 of this chapter, if a person who is affected by a
12 rule adopted by a board believes that the imposition of the rule would
13 impose an undue hardship or burden upon the person, the person may
14 apply to the commissioner for a variance from the rule.
15 **(b) If the variance for which a person applies under subsection**



1 (a) would be in effect for more than one (1) year, the person's
 2 application must include a demonstration of how the person would
 3 come into compliance with the rule within the period for which the
 4 variance would be in effect.

5 ~~(b)~~ (c) The commissioner may hold a public hearing on an
 6 application submitted under subsection (a).

7 ~~(c)~~ (d) If the commissioner determines that immediate compliance
 8 with the rule would impose an undue hardship or burden upon the
 9 applicant, the commissioner ~~except as provided in section 9 of this~~
 10 ~~chapter,~~ may grant a variance from the rule. ~~for any period not~~
 11 ~~exceeding one (1) year. Except as provided in section 9(c) and 9(d)~~
 12 ~~of this chapter, a variance from a rule may be granted for a period~~
 13 ~~of not more than five (5) years.~~

14 ~~(d)~~ Upon the request of an applicant, the commissioner may renew
 15 an expired variance if the commissioner determines that compliance
 16 with the rule would continue to impose an undue hardship or burden
 17 upon the applicant. ~~Except as provided in section 9 of this chapter,~~
 18 ~~each renewal may be granted for a period not exceeding one (1) year.~~

19 (e) If a variance from a rule granted to a person under this
 20 section will be in effect for more than one (1) year, the variance
 21 must include a schedule requiring the person to come into
 22 compliance with the rule within the period for which the variance
 23 will be in effect. The commissioner may revoke a variance granted
 24 to a person under this section if the person fails to meet the
 25 requirements of the compliance schedule included in the variance
 26 under this subsection. If a variance is revoked under this
 27 subsection, the person granted the variance shall comply with the
 28 rule for which the variance was granted.

29 SECTION 3. IC 13-14-8-9, AS AMENDED BY P.L.54-2005,
 30 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2015]: Sec. 9. (a) A variance from a water quality standard
 32 that is at least in part the basis of a National Pollutant Discharge
 33 Elimination System (NPDES) permit issued under this title must meet
 34 the conditions specified in:

35 (1) 40 CFR Part 132, Appendix F, Procedure 2.C; and

36 (2) rules adopted by the board.

37 (b) ~~A variance application must contain a pollutant minimization~~
 38 ~~plan specific to the pollutant for which the variance is requested.~~ With
 39 respect to a variance relating to an NPDES permit for a combined
 40 sewer overflow discharge, this subsection is satisfied if the NPDES
 41 permit holder has prepared a long term control plan and is
 42 implementing the nine (9) minimum controls pursuant to:



(1) 33 U.S.C. 1342(q); and

(2) 59 FR 18688.

(c) Subject to subsection (d), a variance described in subsection (a) may be granted for a period not to exceed the term of the NPDES permit affected by the variance.

(d) If an NPDES permit remains in effect beyond its stated term under IC 13-15-3-6, a variance described in subsection (a) remains in effect for as long as the NPDES permit requirements affected by the variance are in effect.

(e) A variance described in subsection (a) may be renewed each time the NPDES permit affected by the variance is renewed if the conditions of subsections (a) and (b) continue to be met.

SECTION 4. IC 13-14-13-2, AS AMENDED BY P.L.159-2011, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. **(a) If a person is required to submit information or a document to the department, the department may require the person to submit the information or document electronically. However, the department may not require a person to submit information or a document to the department electronically if the person demonstrates to the department that being required to submit the information or document electronically will constitute an undue hardship or burden for the person.**

(b) The department may accept ~~the~~ **an** electronic submission of information only if the submission meets the following:

(1) Requirements of cross-media electronic reporting under 40 CFR 3.

(2) Procedures established by the department to accept electronic information.

SECTION 5. IC 13-14-13-3 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 3: ~~The department may not require a person to make electronic submissions under this chapter.~~

SECTION 6. IC 13-18-11-4, AS AMENDED BY P.L.114-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. **(a)** The commissioner shall issue certificates attesting to the competency of operators. A certificate must indicate the classification of works, plant, or system that the operator is qualified to supervise.

(b) If the successful passage of a certification examination is generally required for the issuance of a particular certificate under this chapter, the department shall administer the certification examination to candidates for the certificate at least once per year.



(c) The commissioner may authorize an independent third party to administer certification examinations in addition to the examinations administered by the department under subsection (b). A third party administering an examination under this subsection may require a candidate taking the examination to pay the third party a fee in addition to paying the department the fee required by section 5 of this chapter.

SECTION 7. IC 13-18-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) A wastewater treatment plant operator certified under this chapter may renew the operator's certificate biennially by paying a renewal fee of thirty dollars (\$30).

(b) The fee is due and payable **on or** before July 21 of the year for which a renewal certificate is issued.

(c) A wastewater treatment plant operator who fails to renew a certificate for three (3) successive years may not receive a renewal certificate without reexamination.

SECTION 8. IC 13-18-11-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6.5. (a) A water treatment plant operator or water distribution system operator certified under this chapter may renew the operator's certificate triennially by:

- (1) paying a renewal fee of thirty dollars (\$30); and
- (2) meeting any continuing education requirements established by the department.

(b) The:

- (1) fee is due and payable; and
- (2) proof of compliance with continuing education requirements must be submitted to the department;

on or before July 21 of the year for which a renewal certificate is to be issued.

(c) A water treatment plant operator or a water distribution system operator who fails to renew a certificate within one (1) year after the date the certificate expires may not receive a renewal certificate without reexamination.

SECTION 9. IC 13-18-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) The commissioner shall notify ~~by mail~~ each person certified by the commissioner as a wastewater treatment plant operator under this chapter of the following:

- (1) The date of the expiration of the operator's certificate.
- (2) The amount of the required fee for renewal for two (2) years.

(b) The commissioner shall ~~mail~~ **provide** the notice at least one (1)



month in advance of the date of expiration of the person's certificate.
~~to the last known address of the individual on file with the~~
~~commissioner.~~

SECTION 10. IC 13-18-11-7.5 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.5. (a) The
 commissioner shall notify ~~by mail~~ each person certified by the
 commissioner as a water treatment plant operator or water distribution
 system operator under this chapter of the following:

- (1) The date of expiration of the operator's certificate.
- (2) The amount of the required fee for renewal for three (3) years.
- (3) The continuing education required for renewal for three (3)
 years.

(b) The commissioner shall ~~mail~~ **provide** the notice at least one (1)
 month in advance of the date of expiration of the person's certificate.
~~to the last known address of the individual on file with the~~
~~commissioner.~~

SECTION 11. IC 13-18-11-13 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. The board shall
 adopt rules under IC 4-22-2 **and IC 13-14-9** that are necessary to carry
 out the intent of this chapter. The rules must include the following:

- (1) Provisions establishing the basis for classification of water
 treatment plants, water distribution systems, and wastewater
 treatment plants.
- (2) Provisions establishing qualifications of applicants and
 procedures for examination of candidates.
- (3) Provisions concerning fees for certification examinations.**
- ~~(3)~~ **(4)** Other provisions that are necessary for the administration
 of this chapter.

SECTION 12. IC 13-18-22-6, AS AMENDED BY P.L.241-2005,
 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2015]: Sec. 6. (a) Except as otherwise specified in subsections
 (b) and (c), compensatory mitigation shall be provided in accordance
 with the following table:

Wetland	Replacement	On-site	Off-site
Class	Class	Ratio	Ratio
Class I	Class II or III	1 to 1	1 to 1
Class I	Class I	1.5 to 1	1.5 to 1
Class II	Class II or III	1.5 to 1	2 to 1
		Nonforested	Nonforested
		2 to 1	2.5 to 1
		Forested	Forested
Class III	Class III	2 to 1	2.5 to 1



1	Nonforested	Nonforested
2	2.5 to 1	3 to 1
3	Forested	Forested

(b) The compensatory mitigation ratio shall be lowered to one to one (1:1) if the compensatory mitigation is completed before the initiation of the wetland activity.

(c) A wetland that is created or restored as a water of the United States may be used, as an alternative to the creation or restoration of an isolated wetland, as compensatory mitigation for purposes of this section. The replacement class of a wetland that is a water of the United States shall be determined by applying the characteristics of a Class I, Class II, or Class III wetland, as appropriate, to the replacement wetland as if it were an isolated wetland.

(d) The off-site location of compensatory mitigation must be:

(1) within:

~~(1)~~ (A) the same eight (8) digit U.S. Geological Service hydrologic unit code; or

~~(2)~~ (B) the same county;

as the isolated wetlands subject to the authorized wetland activity;

or

(2) within a designated service area established in an in lieu fee mitigation program approved by the United States Army Corps of Engineers.

(e) Exempt isolated wetlands may be used to provide compensatory mitigation for wetlands activities in state regulated wetlands. An exempt isolated wetland that is used to provide compensatory mitigation becomes a state regulated wetland.

SECTION 13. IC 13-20-21-9, AS AMENDED BY P.L.159-2011, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. Solid waste disposal fees must be paid **under section 6 of this chapter** by all solid waste disposal facilities, including solid waste landfills, incinerators, and construction\demolition disposal facilities. **The owner or operator of a solid waste disposal facility shall pay the** solid waste disposal fees

(1) for the period of January 1 through June 30 of each year are due ~~on August 1 of that year;~~ and

(2) for the period of July 1 through December 31 of each year are due ~~on February 1 of the following year.~~

at the same time the owner or operator is required to submit quarterly reports to the department under IC 13-20-22-11(e).

SECTION 14. IC 13-20-22-11, AS AMENDED BY P.L.220-2014, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2015]: Sec. 11. (a) The owner or operator of a final disposal facility is responsible for collecting the fees imposed under section 1 of this chapter from persons delivering solid waste to that facility.

(b) Each owner or operator may:

(1) deduct from the fees an amount equal to one percent (1%) of the fees collected; and

(2) retain this amount as compensation for collecting and remitting the fees;

if the fees collected and the reports required under subsection (e) are timely remitted and filed.

(c) If:

(1) the fees collected are remitted; or

(2) the required report is filed;

after the due date, the owner or operator shall remit all fees collected to the department.

(d) The owner or operator shall remit the remainder of the fees that the owner or operator collects during a ~~month~~ **quarter** to the department ~~not later than ten (10) days after the last day of the month in which the fees are collected:~~ **at the same time that reports are required to be filed under subsection (e).**

(e) The owner or operator of a final disposal facility shall file ~~monthly~~ **quarterly** reports with the department concerning the fees collected under this section:

(1) on or before the fifteenth day of January, concerning the fees collected during the preceding quarter consisting of the months of October through December;

(2) on or before the fifteenth day of April, concerning the fees collected during the preceding quarter consisting of the months of January through March;

(3) on or before the fifteenth day of July, concerning the fees collected during the preceding quarter consisting of the months of April through June; and

(4) on or before the fifteenth day of October, concerning the fees collected during the preceding quarter consisting of the months of July through September.

~~The department shall adopt a form for these reports. An owner or operator shall use the form in reporting to submit the quarterly reports on forms provided by the department.~~

SECTION 15. IC 13-20.5-2-1, AS AMENDED BY P.L.37-2012, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) Except as provided in subsection (g), a manufacturer that registers under IC 13-20.5-1 shall pay to the



department at the time of registration an annual registration fee. The registration fee applies for the program year for which the registration is submitted to the department. The department shall deposit the fee in the electronic waste fund established by section 3 of this chapter.

(b) The registration fee for the initial program year to which the fee applies under subsection (a) is five thousand dollars (\$5,000). For each program year thereafter, the registration fee is equal to two thousand five hundred dollars (\$2,500).

(c) In addition to the registration fee under subsection (a), a manufacturer that registers under IC 13-20.5-1 and fails to meet the recycling goal under IC 13-20.5-4-1 is subject to a variable recycling fee for each program year that ends on March 31 of 2013 or December 31 of a later year. Not later than September 1, the department shall provide a statement to each manufacturer liable for the variable recycling fee that states at least the following:

(1) The amount of the fee determined under subsection (d).

(2) The method of calculation of the fee.

(3) The due date of the fee.

(4) The opportunity to petition under section 2 of this chapter.

The department shall deposit the fee in the Indiana recycling promotion and assistance fund established by IC 4-23-5.5-14.

(d) The amount of the variable recycling fee, if applicable, is the amount determined in STEP FOUR of the following formula:

STEP ONE: Multiply the number of pounds of the manufacturer's video display devices sold to households during the immediately preceding program year, as reported in the manufacturer's registration for the program year under IC 13-20.5-1-1(e)(4), by the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1.

STEP TWO: Subject to subsection (e), add the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under ~~IC 13-20.5-3-1(b)~~; **IC 13-20.5-3-1(a)**, to the number of recycling credits the manufacturer elects to use to calculate the variable recycling fee, as reported to the department under ~~IC 13-20.5-3-1(c)(2)~~; **IC 13-20.5-3-1(b)(2)**.

STEP THREE: Subtract the number of pounds determined in STEP TWO from the number of pounds determined in STEP ONE.

STEP FOUR: Multiply the greater of zero (0) or the number of pounds determined in STEP THREE by the per pound cost of recycling established as follows:



(A) Forty cents (\$0.40) per pound for manufacturers that recycle less than fifty percent (50%) of the number of pounds determined in STEP ONE.

(B) Thirty cents (\$0.30) per pound for manufacturers that recycle at least fifty percent (50%) but less than ninety percent (90%) of the number of pounds determined in STEP ONE.

(C) Twenty cents (\$0.20) per pound for manufacturers that recycle at least ninety percent (90%) of the number of pounds determined in STEP ONE.

(e) The following apply to the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year for purposes of subsection (d), STEP TWO:

(1) Except as provided in subdivision (3), the number is multiplied by one and one-tenth (1.1) to the extent that the covered electronic devices were recycled in Indiana.

(2) Except as provided in subdivision (3), the number is multiplied by one and five-tenths (1.5) to the extent that the covered electronic devices were recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget.

(3) The number is multiplied by one and six-tenths (1.6) to the extent that the covered electronic devices were:

(A) recycled from covered entities not located in a metropolitan statistical area, as defined by the federal Office of Management and Budget; and

(B) recycled in Indiana.

(f) A manufacturer may retain recycling credits to be added, in whole or in part, to the actual number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under ~~IC 13-20.5-3-1(b)~~, **IC 13-20.5-3-1(a)**, during any of the three (3) immediately succeeding program years. A manufacturer may sell all or any part of its recycling credits to another manufacturer, at a price negotiated by the parties, and the other manufacturer may use the credits in the same manner. For purposes of this subsection, the recycling credits for the program year that begins April 1, 2010, are determined taking into account covered electronic devices that the manufacturer recycled, or arranged to have collected and recycled, both:

(1) in that program year; and

(2) after June 30, 2009, and before April 1, 2010.



(g) A manufacturer may not be charged a registration fee or a variable recycling fee for any year in which the combined number of video display devices produced by the manufacturer for sale to households is less than one hundred (100).

SECTION 16. IC 13-20.5-3-1, AS AMENDED BY P.L.37-2012, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) ~~Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report to the department an estimate of the total weight in pounds of its video display devices sold to households during the program year that ends on the immediately preceding December 31 based on national sales data. A manufacturer shall submit with an estimate under this subsection a description of how the information or estimate was calculated.~~

~~(b)~~ (a) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report to the department the total weight in pounds of covered electronic devices the manufacturer:

- (1) collected from eligible entities and recycled; or
- (2) arranged to have collected from eligible entities and recycled; during the program year that ends on the immediately preceding December 31.

~~(c)~~ (b) Not later than June 1 of 2011 and of each immediately succeeding year, a manufacturer shall report the following to the department:

- (1) The number of recycling credits the manufacturer has purchased and sold during the program year that ends on the immediately preceding December 31.
- (2) The number of recycling credits possessed by the manufacturer that the manufacturer intends to use in the calculation of its variable recycling fee under IC 13-20.5-2-1.
- (3) The number of recycling credits the manufacturer retains at the beginning of the current program year.
- (4) The amount in pounds of covered electronic devices the manufacturer arranged for a recycler to collect and recycle that were not converted to recycling credits.

SECTION 17. IC 13-22-12-3.5, AS ADDED BY P.L.220-2014, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3.5. (a) For the disposal of hazardous waste in Indiana, the fees are as follows:

- (1) For hazardous waste disposed of in a disposal facility, eleven dollars and fifty cents (\$11.50) per ton. If hazardous waste is mixed with or dissolved or suspended in water or another liquid at



1 the time it is disposed of in a disposal facility, the entire mixture,
2 solution, or suspension disposed of is considered hazardous waste
3 disposed of in a disposal facility for the purposes of this
4 subdivision.

5 (2) For hazardous waste disposed of by underground injection,
6 eleven dollars and fifty cents (\$11.50) per ton. However, a person
7 required to pay disposal fees under this subdivision is not liable for
8 more than twenty-five thousand dollars (\$25,000) in disposal fees
9 under this subdivision for all hazardous waste disposed of by the
10 person by underground injection in one (1) calendar year.

11 (b) Fees imposed under subsection (a)(1) shall be paid by the
12 operator of the disposal facility at which the hazardous waste is
13 disposed of. For hazardous waste disposed of by underground injection
14 at a location other than a disposal facility, the fee imposed on the
15 disposal of the hazardous waste under subsection (a)(2) shall be paid
16 by the person disposing of the hazardous waste.

17 (c) Fees imposed under this section ~~shall be paid quarterly to the~~
18 ~~department in the manner prescribed by the department. However, the~~
19 ~~department is not required to assess quarterly payments separately.~~
20 ~~Fees under this section~~ begin accruing on January 1 of each year. **The**
21 **fees that accrue under this section during a calendar year shall be**
22 **paid to the department on or before March 1 of the following year.**

23 (d) The fees imposed under this section shall be based on the total
24 tonnage of hazardous waste disposed of. The fees do not apply to the
25 treatment or storage of hazardous waste in a disposal facility.

26 (e) The fees ~~collected~~ **paid to the department** under this section
27 shall be deposited and paid over as provided in section 3.6 of this
28 chapter.

